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MGM Grand Condominiums, LLC,
The Signature Condominiums, LLC
Turnberry/Harmon Ave., LLC and
Turnberry West Realty, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARY ANN SUSSEX; et al.,

Plaintiffs,

v.

TURNBERRY/MGM GRAND
TOWERS, LLC, et al.,

Defendants.

) Case No.: 2:08-cv-00773-MMD-PAL
)
) **APPENDIX TO MOTION FOR AN**
) **ORDER DECLARING THAT**
) **ARBITRATOR BRENDAN HARE**
) **IS DISQUALIFIED FOR HIS**
) **FAILURE TO MAKE REQUIRED**
) **DISCLOSURES UNDER NRS**
) **38.227 THAT ESTABLISH HIS**
) **EVIDENT PARTIALITY AND**
) **REQUEST FOR ORAL**
) **ARGUMENT**
) **VOLUME 1 (TMGM 1-244)**
)

CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of MORRIS LAW GROUP, and that the following documents were served via electronic service: **APPENDIX TO MOTION FOR AN ORDER DECLARING THAT ARBITRATOR BRENDAN HARE IS DISQUALIFIED FOR HIS FAILURE TO MAKE REQUIRED DISCLOSURES UNDER NRS 38.227 THAT ESTABLISH HIS EVIDENT PARTIALITY VOLUME 1 (TMGM 1-244)**

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DATED this 11th day of September, 2013.

By: /s/ PATRICIA FERRUGIA

*Sussex et al. v. Turnberry/MGM Grand Towers, LLC, et al.***APPENDIX TO MOTION TO DISQUALIFY ARBITRATOR BRENDAN HARE**

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07/01/2013	"Fourth Amended Complaint in Arbitration Amended as per Nevada Supreme Court Order Attached Hereto and Filed as AAA Case No.: 11 115 Y 001963 09 [<i>KJH & RDA Investor Group, LLC et al. v. Turnberry/MGM Grand Towers, LLC et al. (aka Richard Agnello et al. v. Turnberry/MGM Grand Towers, LLC et al.)</i>]" (excerpt)	2	TMGM 411-416
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	Timeline Chart of Arbitrator's Appointment and his non-disclosures put in context of arbitration proceedings.	2	TMGM 509-512

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FILED

Aug 27 11 32 AM '07

CLERK OF THE COURT

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Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

KJH & RDA Investor Group, LLC; 37th Floor) CASE NO.: A 547024
Investor Group, LLC; Michael Anderson and) XIII
Matthew Anderson; Charles and Ferne Avila) COMPLAINT
and Michael Galasso; Pierre Bain; Ibrahim &)
Laura Barlaj; Dan Birdsall; Hin & Wing Sung) (1) VIOLATION OF N.R.S. 90.460 (Unlawful
Chan; Terencia Conejero; Diane B. Faulconer;) Sale of Unregistered Security)
FCF, LLC; Stephen J. Guyon; Oganess John)
Hakopyan; Zia U. Khan; Markar Karatas and) (2) VIOLATION OF N.R.S. 90.570 (Unlawful
Nurhan Celik; Frank & Carol Keane; Dennis) Sale of Security by Means of Scheme to
Leung and Jiyen Shin; K.B. Lim; Anita and) Defraud)
Tai Chi Luk; Leticia L. Magri; Anahit &)
Alexander Mandoyan; Aoki Michi II, LLC;) (3) FRAUDULENT
Susan and Mark Mignot; Mary Momdzhyan;) MISREPRESENTATION;
BB Ventures, LLC; Ed Narvaez; Dane R.)
Phillips; Craig A. Primas; James and Laurinda) (4) NEGLIGENT MISREPRESENTATION;
Rick; Douglas Schoen; PGR Enterprises,)
LLC; Dimitritsa H. Toromanova; 38th Floor) (5) FRAUD IN THE INDUCEMENT; and
Investor Group, LLC; and David L. Vadis,) (6) FRAUDULENT CONCEALMENT
Plaintiffs.

RECEIVED

AUG 27 2007

CLERK OF THE COURT

1 vs.

2 TURNBERRY/MGM GRAND TOWERS,
3 LLC ; and DOES 1 through 100, Inclusive,
4 Defendants.

5
6 **GROUP ACTION COMPLAINT**

7 COMES NOW, Plaintiffs KJH & RDA Investor Group, LLC; 37th Floor Investor Group,
8 LLC; Michael and Matthew Anderson; Charles and Ferne Avila and Michael Galasso; Pierre
9 Bain; Ibrahim & Laura Barlaj; Dan Birdsall; Hin & Wing Sung Chan; Terencia Conejero; Diane
10 B. Faulconer; FCF, LLC; Stephen J. Guyon; Oganesh John Hakopyan; Zia U. Khan; Markar
11 Karatas and Nurhan Celik; Frank and Carol Keane; Dennis Leung and Jiyen Shin; K.B. Lim;
12 Anita and Tai Chi Luk; Leticia L. Magri; Anahit & Alexander Mandoyan; Aoki Michi II, LLC;
13 Susan and Mark Mignot; Mary Momdzhyan; BB Ventures, LLC; Ed Narvaez; Dane R. Phillips;
14 Craig A. Primas; James and Laurinda Rick; Douglas Schoen; PGR Enterprises, LLC; Dimitritsa
15 H. Toromanova; 38th Floor Investor Group, LLC; and David L. Vadis ("PLAINTIFFS"), who
16 bring this group action against Defendant TURNBERRY/MGM GRAND TOWERS, LLC and
17 DOES 1 through 100, inclusive (hereinafter collectively referred to as ("DEFENDANTS"), and
18 allege, based upon information and belief, except where otherwise stated, as follows:

19
20 **NATURE OF THE ACTION**

21 1. The instant Complaint involves a scheme among the DEFENDANTS through
22 which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-
23 hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in
24 2006 & 2007.

25 2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the
26 formation of a partnership to build a luxury condo hotel, stating that they would build up to six
27

COMP

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Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MARY ANN SUSSEX; MITCHELL PAE;
MALCOLM NICHOLL and SANDY
SCALISE; ERNESTO VALDEZ, SR. and
ERNESTO VALDEZ, JR.; JOHN HANSON
and ELIZABETH HANSON;

Plaintiffs,

vs.

TURNBERRY/MGM GRAND TOWERS,
LLC ; and DOES 1 through 100, Inclusive,
Defendants.

CASE NO.:

A 557730

1X

COMPLAINT

(1) VIOLATION OF N.R.S. 90.460 (Unlawful
Sale of Unregistered Security)

(2) VIOLATION OF N.R.S. 90.570 (Unlawful
Sale of Security by Means of Scheme to
Defraud)

(3) FRAUDULENT
MISREPRESENTATION;

(4) NEGLIGENT MISREPRESENTATION;

(5) FRAUD IN THE INDUCEMENT; and

(6) FRAUDULENT CONCEALMENT

FILED

FEB 22 2 55 PM '13

CLERK OF THE COURT

**ARBITRATION EXEMPTION
CLAIMED:**

**1. DAMAGES IN EXCESS OF \$50,000
PER PLAINTIFF**

**2. ACTION PRESENTS SIGNIFICANT
ISSUES OF PUBLIC POLICY**

GROUP ACTION COMPLAINT

COMES NOW, Plaintiffs Mary Ann Sussex; Mitchell Pae; Malcolm Nicholl and Sandy Scalise; Ernesto Valdez, Sr. and Ernesto Valdez, Jr.; John Hanson and Elizabeth Hanson ("PLAINTIFFS"), who bring this group action against Defendant TURNBERRY/MGM GRAND TOWERS, LLC and DOES 1 through 100, inclusive (hereinafter collectively referred to as "DEFENDANTS"), and allege, based upon information and belief, except where otherwise stated, as follows:

NATURE OF THE ACTION

1. The instant Complaint involves a scheme among the DEFENDANTS through which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in 2006 & 2007.

2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the formation of a partnership to build a luxury condo hotel, stating that they would build up to six towers each rising up to forty stories. The first phase of this project involved the taking of deposits for the sales of the air rights to condominium hotel room units as investment securities with the promise of an MGM Grand Rental Program. During this phase, the project was variously referred to as The Residences, The Residences at MGM Grand and/or The Residences:

Case 2:08-cv-00773 Document 1 Filed 06/13/2008 Page 1 of 6

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MARY ANN SUSSEX; MITCHELL PAE;
 MALCOLM NICHOLL and SANDY
 SCALISE; ERNESTO VALDEZ, SR. and
 ERNESTO VALDEZ, JR; JOHN
 HANSON and ELIZABETH HANSON,

Case No:

NOTICE OF REMOVAL

Plaintiffs,

v.

TURNBERRY/MGM GRAND TOWERS,
 LLC; MGM GRAND, INC., doing
 business as MGM MIRAGE;
 TURNBERRY/HARMON AVE., LLC;
 TURNBERRY ASSOCIATES; and DOES
 1 through 100, inclusive,

Defendants.

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 & PETERSON
 ATTORNEYS AT LAW
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Case 2:08-cv-00773 Document 1 Filed 06/13/2008 Page 2 of 6

1 TO: Mary Ann Sussex; Mitchell Pae; Malcolm Nicholl and Sandy Scalise;
 2 Ernesto Valdez, Sr and Ernesto Valdez, Jr.; John Hanson and
 Elizabeth Hanson, and

3 TO: Robert B. Gerard and Ricardo Ehmann of GERARD & ASSOCIATES,
 4 and Norman Blumenthal of BLUMENTHAL & NORDREHAUG,
 their attorneys.

5 PLEASE TAKE NOTICE that defendant Turnberry/MGM Grand
 6 Towers, LLC ("Turnberry/MGM") hereby removes the state action entitled "Mary
 7 Ann Sussex; Mitchell Pae; Malcolm Nicholl and Sandy Scalise; Ernesto Valdez, Sr
 8 and Ernesto Valdez, Jr.; John Hanson and Elizabeth Hanson v. Turnberry/MGM
 9 Grand Towers, LLC; MGM Grand, Inc., doing business as MGM Mirage;
 10 Turnberry/Harmon Ave., LLC; Turnberry Associates; and Does 1 through 100,
 11 Inclusive," Case No. A557730, filed in the Eighth Judicial District Court for the
 12 State of Nevada in and for the County of Clark, to this Court. The grounds for
 13 removal are:

14 1. Plaintiffs Mary Ann Sussex, Mitchell Pae, Malcolm Nicholl,
 15 Sandy Scalise, Ernesto Valdez, Sr., Ernesto Valdez, Jr., John Hanson, and
 16 Elizabeth Hanson ("Plaintiffs") filed a First Amended Class Action Complaint
 17 ("CA Compl.") on behalf of "hundreds of Class Members." CA Compl., Exhibit A
 18 hereto, ¶ 33.¹ Plaintiffs allege they were fraudulently induced into purchasing
 19 the "air rights" to condominium-hotel room units "as investment securities at the
 20 Signature," *id.*, ¶ 1, a high-rise condominium hotel located on the MGM Grand
 21 Hotel Casino property. There are over 1700 hotel condominium units at
 22 Signature. Plaintiffs seek, *inter alia*, damages, rescission of the purchase and sale
 23 agreements they signed and restitution of the "consideration paid" they paid for
 24 the hotel-condominium units, including "all expenses incurred, costs, and
 25 reasonable attorneys fees." *Id.*, at 32.

26
 27
 28 ¹ Defendants have not been served with any other class action complaints.
 Plaintiffs' original complaint was not filed as a class action. See Exhibit E.

2. This Court has original jurisdiction over this alleged class action under 28 U.S.C. § 1332(d), the Class Action Fairness Act of 2005 ("CAFA"), because: (a) the number of plaintiffs in the putative class is more than 100; (b) the matter in controversy exceeds \$5,000,000; (c) there is minimal diversity between Plaintiffs and Defendants; and (d) none of the Defendants are States, State officials, or governmental entities. *Serano v. 180 Connect, Inc.*, 478 F.3d 1018, 1021 (9th Cir. 2007).

a. At least one plaintiff is diverse from one defendant, as required under 28 U.S.C. § 1332(d)(2)(A). For example, plaintiffs allege that Malcom J. Nichol and Sandy Scalise are citizens of California, and that plaintiff Mitchell Pae is a resident of Virginia. CA Compl., ¶¶ 16-17. Defendant Turnberry/MGM Grand Towers, LLC is a Nevada corporation with its principal place of business in Nevada.²

b. Plaintiffs estimate that there are "hundreds of Class members, geographically spread out throughout the United States. . ." *Id.*, ¶ 34 (a). The proposed class consists of Plaintiffs and all individuals who purchased one or more of the hotel condominium units in the Signature project. *See id.*, ¶ 33. Plaintiffs seek to certify a class under Nevada Rule of Civil Procedure 23, which is the state equivalent of Federal Rule of Civil Procedure 23.³

c. The matter in controversy well exceeds the value of \$5,000,000 because the estimated hundreds of Class Plaintiffs seek damages "in excess of \$50,000 *per plaintiff*." CA Compl., at 2 (Caption) (emphasis added). Plaintiffs seek to recoup the purchase price of their condominium units — each ranging between \$400,000 and \$900,000 — plus any expenses paid as a result of ownership, less any income received by Plaintiffs who currently own the

² MGM Grand, Inc. and Turnberry Associates are not entities under the laws of the state of Nevada or any other state.

³ Defendants do not acknowledge that Plaintiffs have properly pled a class action complaint or that the action is properly maintained as a class action.

1 property. *Id.*, ¶ 41. In addition, Plaintiffs seek civil penalties under NRS 90.640
2 "of not more than \$2,500 for a single violation or \$100,000 for multiple violations,
3 *id.*, ¶¶ 41-43, and punitive damages, *id.*, ¶ 68.

4 d. The class members who are citizens of Nevada do not
5 equal or exceed 2/3 of all putative class members.

6 3. This Court has jurisdiction over this action under 28 U.S.C. §§
7 1332(d), 1453(b), 1441(a), and 1446.

8 4. Venue is appropriate in the unofficial Southern Division of
9 this Court under 28 U.S.C. §§ 1391(b), 1441(a), and 1446(a), and LR IA 6-1. This
10 action was originally filed in the Eighth Judicial District Court for the State of
11 Nevada, Clark County.

12 5. Defendants were served with a copy of the complaint on May,
13 14, 2008. *See* Exhibits B, C, and D hereto. This Notice is therefore timely filed
14 within thirty days of service, as required by 28 U.S.C. §§ 1446(b).

15 6. Turnberry/MGM removes this action under 28 U.S.C. §
16 1453(b), which provides that class actions may be removed by any defendant,
17 without the consent of all other defendants, and irrespective of whether any
18 defendant is a citizen of Nevada.

19 7. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings
20 and orders served on Defendants are attached hereto as follows:

- 21 a. First Amended Class Action Complaint, attached hereto
- 22 at Exhibit A;
- 23 b. Summons Turnberry/MGM Grand Towers, LLC,
- 24 attached hereto as Exhibit B;
- 25 c. Summons Turnberry/Harmon Ave., LLC, attached
- 26 hereto as Exhibit C;
- 27 d. Summons MGM Mirage, attached hereto as Exhibit D.
- 28 e. Complaint, attached hereto as Exhibit E;

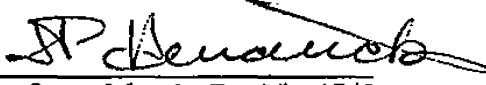
Case 2:08-cv-00773 Document 1 Filed 06/13/2008 Page 5 of 6

- f. First Amendment to Complaint to Substitute True Names for Fictitious Names, attached hereto as Exhibit F;
- g. Summons Turnberry Associates, attached hereto as Exhibit G; and
- h. Motion to Stay, attached hereto as Exhibit H.

8. Concurrently with filing this notice, a copy of this Notice is being filed with the clerk of the Eighth Judicial District Court and served on Plaintiffs' counsel pursuant to 28 U.S.C. § 1446(d).

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CERTIFICATE OF SERVICE

Pursuant to Fed. R. Civ. P. 5(b) and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of MORRIS PICKERING & PETERSON, and that the following documents were served via electronic service: NOTICE OF REMOVAL

TO:

N/A

I further certify that I am familiar with the firm's practice of collection and processing documents for mailing; that in accordance therewith, I caused the above-named document to be deposited with the U.S. Postal Service at Las Vegas, Nevada, in a sealed envelope, with first class postage prepaid, on the date and to the addressee(s) shown below:

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Attorney for Plaintiffs

Robert Fellmeth
University of San Diego Law School
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Attorney for Plaintiffs

DATED this 13th day of June, 2008.

By 
MORRIS PICKERING & PETERSON

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11 Attorneys for Plaintiffs

12 EIGHTH JUDICIAL DISTRICT COURT

13 CLARK COUNTY, NEVADA

14
 15 ROSS BERKELEY; WOLF TRADING) CASE NO.: A565873
 15 COMPANY, LLC; MICHAEL WILSON,) DEPT. NO: XIII
 16 STANLEY WILSON, and CAMILLA)
 16 WILSON; DASHRATH PANCHAL, DINA D.) COMPLAINT
 17 PANCHAL and NARMIN HIRJI;)
 18 QUEZADAS-HORTA FAMILY TRUST,) (1) VIOLATION OF N.R.S. 90.460 (Unlawful
 18 Roberto Quezadas-Horta, Trustee; JOSEPH H.) Sale of Unregistered Security)
 19 SMITH and CAROL J. SMITH; MARIA)
 20 ORELLANA; MAGHAMI FERIAL TRUST,) (2) VIOLATION OF N.R.S. 90.570 (Unlawful
 20 Ferial Maghami, Trustee; LEONARDO) Sale of Security by Means of Scheme to
 21 BARRERA and GLORIA BARRERA;) Defraud)
 21 MOJISOLA ADEKUNBI and ABIOLA)
 22 SANNI; SIGNATURE MGM GRAND, LLC;) (3) VIOLATION OF N.R.S. 598, et seq.
 22 DOUGLAS HUIBREGTSE; JAMES) (Nevada Deceptive Trade Practices Act)
 23 HOKANSON; ANTE LONCAR, LJUBICA)
 24 LONCAR and ELIZABETH G. VIDUCICH;) (4) FRAUDULENT
 24 RAUL RIOS and FERMINA RIOS;) MISREPRESENTATION;
 25 VLADIMIR RIVKIN; DANNY MAES and)
 26 STEPHANIE CLEVELAND; MARK N.) (5) NEGLIGENT MISREPRESENTATION;
 26 KECHEJIAN and CHRISTINE KECHEJIAN;)
 27 MICHAEL HAHALYAK and LISA KRISAY-) (6) FRAUD IN THE INDUCEMENT; and

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1 HAHALYAK; BENJAMIN RUDNITSKY and
2 TAMAR A. RUDNITSKY; CLAY FRAZIER
3 and PAULA FRAZIER; MIRIAM KIM and
4 MARIE KIM; PASQUALE and CATHLEEN
5 M. FEBBRARO; HYO SHIN and JUNG SHIN;
6 EUN YOUNG LEE; JOHN O. TOROSIAN and
7 SARKIS TOROSIAN; LUNIQUE LE; RAFFI
8 PIRICHIAN and ANI PIRICHIAN; JIM C.
9 BURGUM; NARMIN HIRJI; NANCY
10 MARTINA; and HERMAN CELIKIAN;

11 Plaintiffs,

12 vs.

13 TURNBERRY/MGM GRAND TOWERS,
14 LLC; MGM MIRAGE; MGM GRAND
15 CONDOMINIUMS, LLC; THE
16 SIGNATURE CONDOMINIUMS, LLC;
17 TURNBERRY/HARMON AVE., LLC;
18 TURNBERRY RESIDENTIAL HOLDING,
19 L.P.; TURNBERRY SUBSIDIARY G.P., LLC;
20 TURNBERRY WEST REALTY, INC.; and
21 DOES 1 through 100, Inclusive,
22 Defendants.

(7) FRAUDULENT CONCEALMENT

**ARBITRATION EXEMPTION
CLAIMED:**

**1. DAMAGES IN EXCESS OF \$50,000
PER PLAINTIFF**

**2. ACTION PRESENTS SIGNIFICANT
ISSUES OF PUBLIC POLICY**

GROUP ACTION COMPLAINT

19 COMES NOW, Plaintiffs; ROSS BERKELEY; WOLF TRADING COMPANY, LLC;
20 MICHAEL WILSON, STANLEY WILSON, and CAMILLA WILSON; DASHRATH
21 PANCHAL, DINA D. PANCHAL and NARMIN HIRJI; QUEZADAS-HORTA FAMILY
22 TRUST, Roberto Quezadas-Horta, Trustee; JOSEPH H. SMITH and CAROL J. SMITH;
23 MARIA ORELLANA; MAGHAMI FERIA TRUST, Ferial Maghami, Trustee; LEONARDO
24 BARRERA and GLORIA BARRERA; MOJISOLA ADEKUNBI and ABIOLA SANI;
25 SIGNATURE MGM GRAND, LLC; DOUGLAS HUIBREGTSE; JAMES HOKANSON;
26 ANTE LONCAR, LJUBICA LONCAR and ELIZABETH G. VIDUCICH; RAUL RIOS and
27

1 FERMINA RIOS; VLADIMIR RIVKIN; DANNY MAES and STEPHANIE CLEVELAND;
 2 MARK N. KECHEJIAN and CHRISTINE KECHEJIAN; MICHAEL HAHALYAK and LISA
 3 KRISAY-HAHALYAK; BENJAMIN RUDNITSKY and TAMAR A. RUDNITSKY; CLAY
 4 FRAZIER and PAULA FRAZIER; MIRIAM KIM and MARIE KIM; PASQUALE and
 5 CATHLEEN M. FEBBRARO; HYO SHIN and JUNG SHIN; EUN YOUNG LEE; JOHN O.
 6 TOROSIAN and SARKIS TOROSIAN; LUNIQUE LE; RAFFI PIRICHIAN and ANI
 7 PIRICHIAN; JIM C. BURGUM; NARMIN HIRJI; NANCY MARTINA; and HERMAN
 8 CELIKIAN, ("PLAINTIFFS"), who bring this group action against Defendants
 9 TURNBERRY/MGM GRAND TOWERS, LLC; MGM MIRAGE; MGM GRAND
 10 CONDOMINIUMS, LLC; THE SIGNATURE CONDOMINIUMS, LLC;
 11 TURNBERRY/HARMON AVE., LLC; TURNBERRY RESIDENTIAL HOLDING, L.P.;
 12 TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY WEST REALTY, INC. and DOES 1
 13 through 100, inclusive, hereinafter collectively referred to as ("DEFENDANTS"), and allege,
 14 based upon information and belief, except where otherwise stated, as follows:

15 16 NATURE OF THE ACTION

17 1. The instant Complaint involves a scheme among the DEFENDANTS through
 18 which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-
 19 hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in
 20 2006 & 2007.

21 2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the
 22 formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that
 23 they would build up to six towers each rising up to forty stories. The first phase of this project
 24 involved the taking of deposits for the sales of the air rights to condominium hotel room units as
 25 investment securities with the promise of an MGM Grand Rental Program. During this phase,
 26 the project was variously referred to as The Residences, The Residences at MGM Grand and/or
 27

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Attorneys for Plaintiffs
Additional counsel listed on signature page

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MARY ANN SUSSEX; MITCHELL PAE;	)	CASE NO.: 2: 08-cv-00773 - RLH - PAL
MALCOLM NICHOLL and SANDY)	
SCALISE; ERNESTO VALDEZ, SR. and	)	AMENDED FEDERAL CLASS ACTION
ERNESTO VALDEZ, JR.; JOHN HANSON	)	COMPLAINT FOR:
and ELIZABETH HANSON;)	
Plaintiffs,	)	(1) VIOLATION OF THE SECURITIES ACT
vs.	)	OF 1933
)	
TURNBERRY/MGM GRAND TOWERS,	)	(2) VIOLATION OF THE SECURITIES
LLC, a Nevada LLC; MGM GRAND	)	EXCHANGE ACT OF 1934
CONDOMINIUMS LLC, a Nevada LLC;)	
THE SIGNATURE CONDOMINIUMS, LLC	)	(3) VIOLATION OF N.R.S. 90.460
a Nevada LLC; MGM MIRAGE, a Delaware)	
Corporation; TURNBERRY/HARMON	)	(4) VIOLATION OF N.R.S. 90.570
AVE., LLC., a Nevada LLC; and)	
TURNBERRY WEST REALTY, INC., a	)	(5) VIOLATION OF N.R.S. 598, <i>et seq.</i>
Nevada Corporation;)	
Defendants.)	

-) (6) FRAUDULENT
-) MISREPRESENTATION;
-)
-) (7) NEGLIGENT MISREPRESENTATION;
-)
-) (8) FRAUD IN THE INDUCEMENT; and
-)
-) (9) FRAUDULENT CONCEALMENT
-)
-) **ARBITRATION EXEMPTION**
-) **CLAIMED:**
-)
-) **1. DAMAGES IN EXCESS OF \$50,000**
-) **PER PLAINTIFF**
-)
-) **2. ACTION PRESENTS SIGNIFICANT**
-) **ISSUES OF PUBLIC POLICY**
-)
-) **3. CLASS ACTION**
-)
-) **4. ARBITRATION PROVISION**
-) **UNCONSCIONABLE**

AMENDED FEDERAL CLASS ACTION COMPLAINT

COMES NOW, Plaintiffs Mary Ann Sussex; Mitchell Pae; Malcolm Nicholl and Sandy Scalise; Ernesto Valdez, Sr. and Ernesto Valdez, Jr.; John Hanson and Elizabeth Hanson, who bring this action on behalf of themselves, and on behalf of all similarly situated persons (collectively "Plaintiffs"), against Defendants TURNBERRY/MGM GRAND TOWERS, LLC, a Nevada LLC; MGM GRAND CONDOMINIUMS LLC, a Nevada LLC; THE SIGNATURE CONDOMINIUMS, LLC a Nevada LLC; MGM MIRAGE, a Delaware Corporation; TURNBERRY/HARMON AVE., LLC., a Nevada LLC; and TURNBERRY WEST REALTY, INC., a Nevada Corporation (hereinafter collectively referred to as "Defendants"), and allege, based upon information and belief, except where otherwise stated, as follows:

NATURE OF THE ACTION

1. The instant Complaint involves a scheme among the Defendants through which

1 Plaintiffs were illegally and fraudulently induced into purchasing the air rights to condominium-hotel
2 room units as investment securities (the "Securities") at the Signature at the MGM Grand
3 Hotel/Casino in 2006 & 2007.

4 2. The project was variously referred to as The Residences, The Residences at MGM
5 Grand and/or The Residences: A Condo Hotel by Turnberry. The name was subsequently changed
6 prior to any closings and is currently operated under the brand name of the Signature at MGM Grand.

7 3. The Plaintiffs all first acquired these Securities beginning in 2006 with the transfer
8 of the title of the Securities from Defendants to Plaintiffs without first registering the certificate of
9 sale of the Securities as a security as required by law and without being exempt therefrom. The
10 reason the air rights to the hotel condominium units are securities is because:

11 (a) the value of the units are all dependent upon the success or failure of the MGM
12 GRAND branded enterprise;

13 (b) Defendants' sales promotions of the investment in the hotel room gave rise to a
14 reasonable understanding that a valuable benefit, over and above the entire amount
15 paid for the physical air rights to the hotel room, would accrue to the Plaintiffs as a
16 result of the operation of the enterprise as an MGM Grand branded enterprise
17 pursuant to the MGM Grand Rental Program; and

18 (c) the Plaintiffs, as owners of shares in the enterprise, by signing on with the MGM
19 Grand Rental Program, did not receive and did not intend to receive the right to
20 exercise any practical or actual control over the managerial decisions of the MGM
21 Grand enterprise.

22 4. Each sale was consummated when each Plaintiff furnished the entire amount paid for
23 the condominium hotel units at the Signature at MGM Grand and closed the purchase as a purchase
24 in the MGM Grand branded enterprise with the transfer of title to the Securities from Defendants to
25 Plaintiffs. Defendants used both inside and outside sales teams to sell the Securities.

26 5. Central to the Defendants' marketing of the Securities were the omission of material
27 facts and the representations that the Securities would generate substantial amounts of revenue to
28

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Attorneys for Plaintiffs

**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

JERRY BROWN; WILLIAM PEDERSON and)
TATYANA PEDERSON; CHARLES GERACI)
and DELVIN DIAZ; MYUNG JA CHO;)
SHERENNE TANG and JULIETA)
BALAHADIA; CHENG LIM;)

A 569825
XIII

COMPLAINT

Plaintiffs,

vs.

TURNBERRY/MGM GRAND TOWERS,
LLC; MGM MIRAGE; MGM GRAND
CONDOMINIUMS, LLC; THE
SIGNATURE CONDOMINIUMS, LLC;
TURNBERRY/HARMON AVE., LLC;
TURNBERRY RESIDENTIAL HOLDING,
L.P.; TURNBERRY SUBSIDIARY G.P., LLC;
TURNBERRY WEST REALTY, INC.; and
DOES 1 through 100, Inclusive,
Defendants.

(1) VIOLATION OF N.R.S. 90.460 (Unlawful
Sale of Unregistered Security)
(2) VIOLATION OF N.R.S. 90.570 (Unlawful
Sale of Security by Means of Scheme to
Defraud)
(3) VIOLATION OF N.R.S. 598, *et seq.*
(Nevada Deceptive Trade Practices Act)
(4) FRAUDULENT
MISREPRESENTATION;
(5) NEGLIGENT MISREPRESENTATION;

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(6) FRAUD IN THE INDUCEMENT; and

(7) FRAUDULENT CONCEALMENT

**ARBITRATION EXEMPTION
CLAIMED:**

**1. DAMAGES IN EXCESS OF \$50,000
PER PLAINTIFF**

**2. ACTION PRESENTS SIGNIFICANT
ISSUES OF PUBLIC POLICY**

GROUP ACTION COMPLAINT

COMES NOW, Plaintiffs, JERRY BROWN; WILLIAM PEDERSON and TATYANA PEDERSON; CHARLES GERACI and DELVIN DIAZ; MYUNG JA CHO; SHERENNE TANG and JULIETA BALAHADIA; CHENG LIM, ("PLAINTIFFS"), who bring this group action against Defendants TURNBERRY/MGM GRAND TOWERS, LLC; MGM MIRAGE; MGM GRAND CONDOMINIUMS, LLC; THE SIGNATURE CONDOMINIUMS, LLC; TURNBERRY/HARMON AVE., LLC; TURNBERRY RESIDENTIAL HOLDING, L.P.; TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY WEST REALTY, INC. and DOES 1 through 100, inclusive, hereinafter collectively referred to as ("DEFENDANTS"), and allege, based upon information and belief, except where otherwise stated, as follows:

NATURE OF THE ACTION

1. The instant Complaint involves a scheme among the DEFENDANTS through which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in 2006 & 2007.

2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that

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11 Attorneys for Plaintiffs

12 **EIGHTH JUDICIAL DISTRICT COURT**13 **CLARK COUNTY, NEVADA**

A 573280

15 DAVID SHIM; and HOJOON LEE;

) CASE NO.:

) DEPT. NO:

16 Plaintiffs,

)

17 vs.

)

) **COMPLAINT**

)

18 TURNBERRY/MGM GRAND TOWERS,

) (1) CONSTRUCTIVE TRUST /

19 LLC; MGM MIRAGE; MGM GRAND

) RESTITUTION

20 CONDOMINIUMS, LLC; THE

) (Violation of N.R.S. 205.090--Forgery of

21 SIGNATURE CONDOMINIUMS, LLC;

) Signature on Contract)

22 TURNBERRY/HARMON AVE., LLC;

)

23 TURNBERRY RESIDENTIAL HOLDING,

) (2) VIOLATION OF N.R.S. 90.460

24 L.P.; TURNBERRY SUBSIDIARY G.P., LLC;

) (Unlawful Sale of Unregistered Security)

25 TURNBERRY WEST REALTY, INC.; and

)

26 DOES 1 through 100, Inclusive,

) (3) VIOLATION OF N.R.S. 90.570

27 Defendants.

) (Unlawful Sale of Security by Means of
Scheme to Defraud)28 (4) VIOLATION OF N.R.S. 598, *et seq.*
(Nevada Deceptive Trade Practices Act)

(5) FRAUDULENT
MISREPRESENTATION;

(6) NEGLIGENT
MISREPRESENTATION;

(7) FRAUD IN THE INDUCEMENT; and

(8) FRAUDULENT CONCEALMENT

**ARBITRATION EXEMPTION
CLAIMED:**

**1. DAMAGES IN EXCESS OF \$50,000
PER PLAINTIFF**

**2. ACTION PRESENTS SIGNIFICANT
ISSUES OF PUBLIC POLICY**

**3. SIGNATURE FORGERY RENDERS
ARBITRATION PROVISION NULL
AND VOID**

COMPLAINT

COMES NOW, Plaintiffs, DAVID SHIM and HOJOON LEE, ("PLAINTIFFS"), who
bring this group action against Defendants TURNBERRY/MGM GRAND TOWERS, LLC;
MGM MIRAGE; MGM GRAND CONDOMINIUMS, LLC; THE SIGNATURE
CONDOMINIUMS, LLC; TURNBERRY/HARMON AVE., LLC; TURNBERRY
RESIDENTIAL HOLDING, L.P.; TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY
WEST REALTY, INC. and DOES 1 through 100, inclusive, hereinafter collectively referred to
as ("DEFENDANTS"), and allege, based upon information and belief, except where otherwise
stated, as follows:

NATURE OF THE ACTION

1. The instant Complaint involves a scheme among the DEFENDANTS through which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in Las Vegas, Nevada. After being induced into buying unregistered securities, Plaintiffs fell victim to signature fraud as DEFENDANTS forged Plaintiffs' signatures on various documents including the Purchase Agreement.

2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that they would build up to six towers each rising up to forty stories. The first phase of this project involved the taking of deposits for the sales of the air rights to condominium hotel room units as investment securities with the promise of an MGM Grand Rental Program. During this phase, the project was variously referred to as The Residences, The Residences at MGM Grand and/or The Residences: A Condo Hotel by Turnberry. The name was subsequently changed prior to any closings and is currently operated under the brand name of THE SIGNATURE AT MGM GRAND ("MGM SIGNATURE").

3. The second phase involved the closing of the sale of the air rights to condominium hotel room units as investment securities (the "SECURITIES").

4. PLAINTIFF LEE acquired the SECURITY with the transfer of the title of the SECURITY from DEFENDANTS to PLAINTIFFS, without first registering the certificate of sale of the SECURITIES as a security as required by law and without being exempt therefrom. After transfer of the title of the SECURITY, PLAINTIFF LEE discovered that his signature had been forged by DEFENDANTS on various documents, including the Purchase Agreement, described in more detail below.

5. PLAINTIFF SHIM did not close on his unit because he discovered acts of signature fraud on the part of DEFENDANTS prior to closing which prompted him to demand

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19 Attorneys for Plaintiffs

20 EIGHTH JUDICIAL DISTRICT COURT
 21 CLARK COUNTY, NEVADA

22 MICHAEL LINARES and LAURIE LINARES;) CASE NO.: A 574558
 23 GREG YI and GRACE YI; SOLIP, LLC;) DEPT. NO: X111
 24 UJJAL GHOSHTAGORE; WERDMULLER)
 25 FAMILY TRUST, Walter E. Werdmuller von)
 26 Elgg and Jill C. Werdmuller von Elgg, Trustees;) COMPLAINT
 27 SASAN SEIDFATHI and MEHRNAZ)
 28 SAGHAFI; LAWRENCE M. DUMOULIN;) (1) VIOLATION OF N.R.S. 90.460 (Unlawful
 SEHAK TUNA and VARTUHI TUNA;) Sale of Unregistered Security)
 LAWRENCE HOBSON and LINDA M.)
 HOBSON; LEE PRITZL;) (2) VIOLATION OF N.R.S. 90.570 (Unlawful
) Sale of Security by Means of Scheme to
) Defraud)
)
) (3) VIOLATION OF N.R.S. 598, et seq.
) (Nevada Deceptive Trade Practices Act)
)
) (4) FRAUDULENT
) MISREPRESENTATION;
) (5) NEGLIGENT MISREPRESENTATION;
)

29 Plaintiffs,

30 vs.

31 TURNBERRY/MGM GRAND TOWERS,)
 32 LLC; MGM MIRAGE; MGM GRAND)
 33 CONDOMINIUMS, LLC; THE)
 34 SIGNATURE CONDOMINIUMS, LLC;)
 35 TURNBERRY/HARMON AVE., LLC;)
 36 TURNBERRY RESIDENTIAL HOLDING,)

1 L.P.; TURNBERRY SUBSIDIARY G.P., LLC;) (6) FRAUD IN THE INDUCEMENT; and
 2 TURNBERRY WEST REALTY, INC.; and)
 3 DOES 1 through 100, Inclusive,) (7) FRAUDULENT CONCEALMENT
 4 Defendants.)
 5) ARBITRATION EXEMPTION
 6) CLAIMED:
 7)
 8) 1. DAMAGES IN EXCESS OF \$50,000
 9) PER PLAINTIFF
 10)
 11) 2. ACTION PRESENTS SIGNIFICANT
 12) ISSUES OF PUBLIC POLICY
 13)

10 GROUP ACTION COMPLAINT

11 COMES NOW, Plaintiffs, MICHAEL LINARES and LAURIE LINARES; GREG YI and
 12 GRACE YI; SOLIP, LLC; UJJAL GHOSHTAGORE; WERDMULLER FAMILY TRUST,
 13 Walter E. Werdmuller von Elgg and Jill C. Werdmuller von Elgg, Trustees; SASAN
 14 SEIDFATHI and MEHRNAZ SAGHAFI; LAWRENCE M. DUMOULIN; SEHAK TUNA and
 15 VARTUHI TUNA; LAWRENCE HOBSON and LINDA M. HOBSON; LEE PRITZL,
 16 ("PLAINTIFFS"), who bring this group action against Defendants TURNBERRY/MGM
 17 GRAND TOWERS, LLC; MGM MIRAGE; MGM GRAND CONDOMINIUMS, LLC; THE
 18 SIGNATURE CONDOMINIUMS, LLC; TURNBERRY/HARMON AVE., LLC; TURNBERRY
 19 RESIDENTIAL HOLDING, L.P.; TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY
 20 WEST REALTY, INC. and DOES 1 through 100, inclusive, hereinafter collectively referred to
 21 as ("DEFENDANTS"), and allege, based upon information and belief, except where otherwise
 22 stated, as follows:
 23

24 NATURE OF THE ACTION

25 1. The instant Complaint involves a scheme among the DEFENDANTS through
 26 which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-
 27 hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in
 28

1 2006 & 2007.

2 2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the
3 formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that
4 they would build up to six towers each rising up to forty stories. The first phase of this project
5 involved the taking of deposits for the sales of the air rights to condominium hotel room units as
6 investment securities with the promise of an MGM Grand Rental Program. During this phase,
7 the project was variously referred to as The Residences, The Residences at MGM Grand and/or
8 The Residences: A Condo Hotel by Turnberry. The name was subsequently changed prior to any
9 closings and is currently operated under the brand name of THE SIGNATURE AT MGM
10 GRAND ("MGM GRAND").

11 3. The second phase involved the closing of the sale of the air rights to condominium
12 hotel room units as investment securities, which were sold by the DEFENDANTS to
13 PLAINTIFFS and each of them, as an investment security in the air space of the condominium
14 hotel room units (the "SECURITIES"). The PLAINTIFFS all first acquired these SECURITIES
15 in 2006 and 2007 with the transfer of the title of the SECURITIES from DEFENDANTS to
16 PLAINTIFFS, without first registering the certificate of sale of the SECURITIES as a security as
17 required by law and without being exempt therefrom. The reason the air rights to the hotel
18 condominium units are securities is because:

- 19 a. the value of the units are all dependent upon the success or failure of the MGM
20 GRAND branded enterprise;
- 21 b. DEFENDANTS' sales promotions of the investment in the hotel room gave rise
22 to a reasonable understanding that a valuable benefit, over and above the entire
23 amount paid for the physical air rights to the hotel room, would accrue to the
24 PLAINTIFFS as a result of the operation of the enterprise as an MGM GRAND
25 branded enterprise pursuant to the MGM Grand Rental Program; and
- 26 c. the PLAINTIFFS, as owners of shares in the enterprise, by signing on with the
27

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1 **COM**

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12 **EIGHTH JUDICIAL DISTRICT COURT**13 **CLARK COUNTY, NEVADA**14
15 BELINDA W. LOUIE; AMIN A. RAHIM and
16 ZAITUN A. RAHIM; PRISCILLA SALEM;

17 Plaintiffs,

18 vs.

19 TURNBERRY/MGM GRAND TOWERS,
20 LLC; MGM MIRAGE; MGM GRAND
21 CONDOMINIUMS, LLC; THE
22 SIGNATURE CONDOMINIUMS, LLC;
23 TURNBERRY/HARMON AVE., LLC;
24 TURNBERRY RESIDENTIAL HOLDING,
L.P.; TURNBERRY SUBSIDIARY G.P., LLC;
TURNBERRY WEST REALTY, INC.; and
DOES 1 through 100, Inclusive,
25 Defendants.

) CASE NO.: A577034

) DEPT. NO: X\\

) **COMPLAINT**) (1) VIOLATION OF N.R.S. 90.460 (Unlawful
Sale of Unregistered Security)) (2) VIOLATION OF N.R.S. 90.570 (Unlawful
Sale of Security by Means of Scheme to
Defraud)) (3) VIOLATION OF N.R.S. 598, *et seq.*
(Nevada Deceptive Trade Practices Act)) (4) FRAUDULENT
MISREPRESENTATION;

) (5) NEGLIGENT MISREPRESENTATION;

1) (6) FRAUD IN THE INDUCEMENT; and
 2)
 3) (7) FRAUDULENT CONCEALMENT
 4)
 5) ARBITRATION EXEMPTION
 6) CLAIMED:
 7)
 8) 1. DAMAGES IN EXCESS OF \$50,000
 9) PER PLAINTIFF
 10)
 11) 2. ACTION PRESENTS SIGNIFICANT
 12) ISSUES OF PUBLIC POLICY
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 14)
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 26)
 27)
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GROUP ACTION COMPLAINT

COMES NOW, Plaintiffs, BELINDA W. LOUIE; AMIN A. RAHIM and ZAITUN A. RAHIM; PRISCILLA SALEM, ("PLAINTIFFS"), who bring this group action against Defendants TURNBERRY/MGM GRAND TOWERS, LLC; MGM MIRAGE; MGM GRAND CONDOMINIUMS, LLC; THE SIGNATURE CONDOMINIUMS, LLC; TURNBERRY/HARMON AVE., LLC; TURNBERRY RESIDENTIAL HOLDING, L.P.; TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY WEST REALTY, INC. and DOES 1 through 100, inclusive, hereinafter collectively referred to as ("DEFENDANTS"), and allege, based upon information and belief, except where otherwise stated, as follows:

NATURE OF THE ACTION

1. The instant Complaint involves a scheme among the DEFENDANTS through which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in 2006 & 2007.

2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that they would build up to six towers each rising up to forty stories. The first phase of this project

1 involved the taking of deposits for the sales of the air rights to condominium hotel room units as
2 investment securities with the promise of an MGM Grand Rental Program. During this phase,
3 the project was variously referred to as The Residences, The Residences at MGM Grand and/or
4 The Residences: A Condo Hotel by Turnberry. The name was subsequently changed prior to any
5 closings and is currently operated under the brand name of THE SIGNATURE AT MGM
6 GRAND ("MGM GRAND").

7 3. The second phase involved the closing of the sale of the air rights to condominium
8 hotel room units as investment securities, which were sold by the DEFENDANTS to
9 PLAINTIFFS and each of them, as an investment security in the air space of the condominium
10 hotel room units (the "SECURITIES"). The PLAINTIFFS all first acquired these SECURITIES
11 in 2006 and 2007 with the transfer of the title of the SECURITIES from DEFENDANTS to
12 PLAINTIFFS, without first registering the certificate of sale of the SECURITIES as a security as
13 required by law and without being exempt therefrom. The reason the air rights to the hotel
14 condominium units are securities is because:

- 15 a. the value of the units are all dependent upon the success or failure of the MGM
16 GRAND branded enterprise;
- 17 b. DEFENDANTS' sales promotions of the investment in the hotel room gave rise
18 to a reasonable understanding that a valuable benefit, over and above the entire
19 amount paid for the physical air rights to the hotel room, would accrue to the
20 PLAINTIFFS as a result of the operation of the enterprise as an MGM GRAND
21 branded enterprise pursuant to the MGM Grand Rental Program; and
- 22 c. the PLAINTIFFS, as owners of shares in the enterprise, by signing on with the
23 MGM Grand Rental Program, did not receive and did not intend to receive the
24 right to exercise any practical or actual control over the managerial decisions of
25 the MGM GRAND enterprise. Each sale was consummated when each Plaintiff
26 furnished the entire amount paid for the condominium hotel units at the MGM
27

COM

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 Ricardo R. Ehmann, Esq.
 Nevada State Bar #010576
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 Facsimile: (858) 551-1232

Attorneys for Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT**CLARK COUNTY, NEVADA**

IKE SHERMAN and GILLIANA SHERMAN;
 REMI OHTA; DUNCAN & GARDELLA
 ENTERPRISES, LLC; ALEXANDER
 GONSECKI and VALENTINA GONSECKI;
 SHI SI ZHENG;

CASE NO.:
 DEPT. NO:
)
)
)
)

A58 1851**XI****COMPLAINT**

Plaintiffs,

vs.

TURNBERRY/MGM GRAND TOWERS,
 LLC; MGM MIRAGE; MGM GRAND
 CONDOMINIUMS, LLC; THE
 SIGNATURE CONDOMINIUMS, LLC;
 TURNBERRY/HARMON AVE., LLC;
 TURNBERRY RESIDENTIAL HOLDING,
 L.P.; TURNBERRY SUBSIDIARY G.P., LLC;
 TURNBERRY WEST REALTY, INC.; and
 DOES 1 through 100, Inclusive,
 Defendants.

) (1) VIOLATION OF N.R.S. 90.460 (Unlawful
) Sale of Unregistered Security)
)
) (2) VIOLATION OF N.R.S. 90.570 (Unlawful
) Sale of Security by Means of Scheme to
) Defraud)
)
) (3) VIOLATION OF N.R.S. 598, *et seq.*
) (Nevada Deceptive Trade Practices Act)
)
) (4) FRAUDULENT
) MISREPRESENTATION;
)
) (5) NEGLIGENT MISREPRESENTATION;
)

1) (6) FRAUD IN THE INDUCEMENT; and
 2)
 3) (7) FRAUDULENT CONCEALMENT
 4)
 5) **ARBITRATION EXEMPTION**
 6) **CLAIMED:**
 7)
 8) **1. DAMAGES IN EXCESS OF \$50,000**
 9) **PER PLAINTIFF**
 10)
 11) **2. ACTION PRESENTS SIGNIFICANT**
 12) **ISSUES OF PUBLIC POLICY**
 13)

14 **GROUP ACTION COMPLAINT**

15 COMES NOW, Plaintiffs, IKE SHERMAN and GILLIANA SHERMAN; REMI OHTA;
 16 DUNCAN & GARDELLA ENTERPRISES, LLC; ALEXANDER GONSECKI and
 17 VALENTINA GONSECKI; SHI SI ZHENG, ("PLAINTIFFS"), who bring this group action
 18 against Defendants TURNBERRY/MGM GRAND TOWERS, LLC; MGM MIRAGE; MGM
 19 GRAND CONDOMINIUMS, LLC; THE SIGNATURE CONDOMINIUMS, LLC;
 20 TURNBERRY/HARMON AVE., LLC; TURNBERRY RESIDENTIAL HOLDING, L.P.;
 21 TURNBERRY SUBSIDIARY G.P., LLC; TURNBERRY WEST REALTY, INC. and DOES 1
 22 through 100, inclusive, hereinafter collectively referred to as ("DEFENDANTS"), and allege,
 23 based upon information and belief, except where otherwise stated, as follows:

24 **NATURE OF THE ACTION**

25 1. The instant Complaint involves a scheme among the DEFENDANTS through
 26 which PLAINTIFFS were fraudulently induced into purchasing the air rights to condominium-
 27 hotel room units as investment securities at the Signature at the MGM Grand Hotel/Casino in
 28 2006 & 2007.

2. On December 20, 2003, MGM Mirage and Turnberry Associates announced the
 formation of a partnership to build a luxury condo hotel (the "JOINT VENTURE"), stating that

1 they would build up to six towers each rising up to forty stories. The first phase of this project
 2 involved the taking of deposits for the sales of the air rights to condominium hotel room units as
 3 investment securities with the promise of an MGM Grand Rental Program. During this phase,
 4 the project was variously referred to as The Residences, The Residences at MGM Grand and/or
 5 The Residences: A Condo Hotel by Turnberry. The name was subsequently changed prior to any
 6 closings and is currently operated under the brand name of THE SIGNATURE AT MGM
 7 GRAND ("MGM GRAND").

8 3. The second phase involved the closing of the sale of the air rights to condominium
 9 hotel room units as investment securities, which were sold by the DEFENDANTS to
 10 PLAINTIFFS and each of them, as an investment security in the air space of the condominium
 11 hotel room units (the "SECURITIES"). The PLAINTIFFS all first acquired these SECURITIES
 12 in 2006 and 2007 with the transfer of the title of the SECURITIES from DEFENDANTS to
 13 PLAINTIFFS, without first registering the certificate of sale of the SECURITIES as a security as
 14 required by law and without being exempt therefrom. The reason the air rights to the hotel
 15 condominium units are securities is because:

- 16 a. the value of the units are all dependent upon the success or failure of the MGM
 17 GRAND branded enterprise;
- 18 b. DEFENDANTS' sales promotions of the investment in the hotel room gave rise
 19 to a reasonable understanding that a valuable benefit, over and above the entire
 20 amount paid for the physical air rights to the hotel room, would accrue to the
 21 PLAINTIFFS as a result of the operation of the enterprise as an MGM GRAND
 22 branded enterprise pursuant to the MGM Grand Rental Program; and
- 23 c. the PLAINTIFFS, as owners of shares in the enterprise, by signing on with the
 24 MGM Grand Rental Program, did not receive and did not intend to receive the
 25 right to exercise any practical or actual control over the managerial decisions of
 26 the MGM GRAND enterprise. Each sale was consummated when each Plaintiff
 27

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

* * *

MARY ANN SUSSEX, *et al.*,
Plaintiff(s),

vs.

TURNBERRY/MGM GRAND
TOWERS, LLC, *et al.*,
Defendant(s).

Case No. 2:08-cv-0773-RLH-PAL

ORDER

Before the Court is an Order (#43, entered March 31, 2009) and a Memorandum of Decision (#46, entered April 6, 2009), entered by the Honorable Peggy A. Leen, regarding Defendant's Motion to Compel Arbitration (#17), Motion to Continue Hearing (#21), and Motion to Strike (#38).

Defendant filed an Objection (#51) to Judge Leen's Order denying Defendant's Motion to Compel Arbitration, in accordance with Local Rule IB 3-1 of the Rules of Practice of the United States District Court for the District of Nevada. Defendant also filed a Supplement (#54) to its Objection, putting this Court on notice of a Nevada Supreme Court decision, filed April 22, 2009, dealing with the same issue and the same contract in question here. Plaintiffs filed an Opposition (#55) to the Objection, Defendant filed a Reply (#58), and this matter was referred for consideration.

The Court has conducted a *de novo* review of the record in this case in accordance with 28 U.S.C. §636(b)(1)(A), (B), and (C) and Local Rule IB 3-1 and determines that the Order of Magistrate Judge Leen is contrary to state law as recently pronounced by the Nevada Supreme Court. Accordingly, Defendant's Objection will be sustained and Judge Leen's Order and Memo-

1 random Decision will be overruled, reversed and vacated.

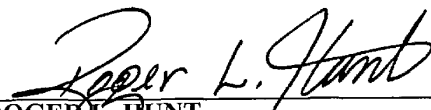
2 The issue presented is whether the arbitration provision of the Purchase Sale
3 Agreements, for the purchase of condominium hotel units at the Signature/MGM Grand project, is
4 valid and enforceable. A related case, involving the same Purchase Sale Agreement, *KJH & RDH*
5 *Investor Group, LLC et al. V. Turnberry/MGM Grand Towers, LLC et al.*, Case No. A547024, was
6 before the Nevada Supreme Court on appeal from a state district court ruling that the arbitration
7 provision was valid.

8 Although Judge Leen delayed her decision for a time, hoping the Nevada Supreme
9 Court would speak to the issue, there came a time, when there being no decision forthcoming by the
10 Nevada Supreme Court, that Judge Leen proceeded to render her decision, based upon a recent,
11 prior decision by the Nevada Supreme Court, *D. R. Horton v. Green*, 120 Nev. 549, 553 (204). She
12 apparently felt the Court would find the facts here sufficiently similar to *D. R. Horton* that it would
13 likely follow suit.

14 A mere two weeks after her Order and Decision, the Nevada Supreme Court
15 published its decision in *KJH & RDH Investor Group* and reached a different result. Although the
16 undersigned does not find Judge Leen's Order and Decision to be clearly erroneous and contrary to
17 law as she then understood it to be, the Nevada Supreme Court has spoken directly to this issue and
18 this Court feels its pronouncement is controlling.

19 IT IS THEREFORE ORDERED that Magistrate Judge Leen's Order (#43) and
20 Memorandum Decision (#46) are overruled, reversed and vacated as relating to the arbitration
21 provision, Defendant's Objection (#55) is sustained, and Defendant's Motion to Compel Arbitration
22 (#17) is granted.

23 Dated: June 16, 2009.

24
25 
26 **ROGER L. HUNT**
Chief U.S. District Judge



American Arbitration Association
Dispute Resolution Services Worldwide

Dispute Resolution ARBITRATION RULES
(ENTER THE NAME OF THE APPLICABLE RULES)
Demand for Arbitration

MEDIATION: If you would like the AAA to contact the other parties and attempt to arrange mediation, please check this box. <input type="checkbox"/> There is no additional administrative fee for this service.					
Name of Respondent MGM Mirage; Turnberry/MGM Grand Towers, LLC; (continued below)			Name of Representative (if known) Steve Morris, Esq.		
Turnberry/Harmon Ave., LLC; Turnberry West Realty, Inc.;			Name of Firm (if applicable): Morris Peterson		
MGM Grand Condominiums, LLC; The Signature Condominiums, LLC			Representative's Address 300 South Fourth Street		
City	State	Zip Code	City	State	Zip Code
			Las Vegas	NV	89101
Phone No.		Fax No.	Phone No. (702) 474-9400		Fax No. (702) 474-9422
Email Address:			Email Address: SM@morrislawgroup.com		
The named claimant, a party to an arbitration agreement dated _____, which provides for arbitration under the _____ Arbitration Rules of the American Arbitration Association, hereby demands arbitration.					
THE NATURE OF THE DISPUTE This is a CLASS ACTION seeking certification of the case to proceed and be adjudicated as a class action of the claims set forth in the Amended Complaint attached hereto as EXHIBIT "1".					
Dollar Amount of Claim \$ _____ Excess of \$10,000,000			Other Relief Sought: <input checked="" type="checkbox"/> Attorneys Fees <input checked="" type="checkbox"/> Interest <input checked="" type="checkbox"/> Arbitration Costs <input checked="" type="checkbox"/> Punitive/ Exemplary <input checked="" type="checkbox"/> Other Rescission		
Amount Enclosed \$2,500.00 In accordance with Fee Schedule: <input checked="" type="checkbox"/> Flexible Fee Schedule <input type="checkbox"/> Standard Fee Schedule					
PLEASE DESCRIBE APPROPRIATE QUALIFICATIONS FOR ARBITRATOR(S) TO BE APPOINTED TO HEAR THIS DISPUTE: Former District Attorney or former U.S. Attorney.					
Hearing locale <u>Las Vegas, NV</u> (check one) <input type="checkbox"/> Requested by Claimant <input checked="" type="checkbox"/> Locale provision included in the contract					
Estimated time needed for hearings overall: _____ hours or _____ days			Type of Business: Claimant <u>Individual Investors</u> Respondent <u>Developer/Owner of Hotels Worldwide</u>		
Is this a dispute between a business and a consumer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No			Does this dispute arise out of an employment relationship? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
If this dispute arises out of an employment relationship, what was/is the employee's annual wage range? Note: This question is required by California law. <input type="checkbox"/> Less than \$100,000 <input type="checkbox"/> \$100,000 - \$250,000 <input type="checkbox"/> Over \$250,000					
You are hereby notified that copies of our arbitration agreement and this demand are being filed with the American Arbitration Association's Case Management Center, located in (check one) <input type="checkbox"/> Atlanta, GA <input type="checkbox"/> Dallas, TX <input type="checkbox"/> East Providence, RI <input checked="" type="checkbox"/> Fresno, CA <input type="checkbox"/> International Centre, NY, with a request that it commence administration of the arbitration. Under the rules, you may file an answering statement within the timeframe specified in the rules, after notice from the AAA.					
Signature (may be signed by a representative) <u>Reardo Elman</u>			Date: <u>8-31-09</u>		
Name of Claimant Mary Ann Sussex (on behalf of herself and the CLASS)			Name of Representative Robert B. Gerard, Esq.		
Address (to be used in connection with this case): c/o Gerard and Associates; 2840 South Jones Blvd., Bldg. D, Unit 4			Name of Firm (if applicable) Gerard and Associates		
City Las Vegas			Representative's Address: 2840 South Jones Blvd. Bldg. D, Unit 4		
State NV	Zip Code 89146		City Las Vegas	State NV	Zip Code 89146
Phone No. (702) 251-0093		Fax No. (702) 251-0094	Phone No. (702) 251-0093		Fax No. (702) 251-0094
Email Address: rgerard@gerardlaw.com; rehmann@gerardlaw.com			Email Address: rgerard@gerardlaw.com		
To begin proceedings, please send two copies of this Demand and the Arbitration Agreement, along with the filing fee as provided for in the Rules, to the AAA. Send the original Demand to the Respondent.					
Please visit our website at www.adr.org if you would like to file this case online. AAA Customer Service can be reached at 800-778-7879					

American Arbitration Association

ADDENDUM TO DEMAND FOR CLASS ARBITRATION

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AAA File No. _____

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Counsel for Claimants

PROCEDURAL BACKGROUND

Original Complaint against Respondents was filed on February 22, 2008, in the Eighth Judicial District, Clark County, Nevada (Case No. A557730). The dispute between the parties focuses primarily on allegations of securities law violations in the sale and marketing of condo-hotel units at the Signature at MGM Grand Hotel, located in Las Vegas, Nevada. The Complaint was amended to include class allegations on May 7, 2008. Respondents removed the action to U.S. Federal District Court, District of Nevada, on June 13, 2008 (Case No. 2:08-cv-00773). Claimants filed an Amended Class Action Complaint on July 2, 2008, which added federal claims under the Securities Act of 1933 and 1934 to the previously asserted seven state law claims. Claimants (Mary Ann Sussex, Mitchell Pae, Malcolm Nicholl, Sandy Scalise, Ernesto Valdez, Sr., Ernesto Valdez, Jr., John Hanson, Elizabeth Hanson, Andres F. Alos, Martha Vias, Charles Crooks, Laura Crooks, Sampal Family Revocable Living Trust, Daniel Reich, Natalie Reich, Jose Sanchez, Linda S. Corbridge, Fouad Feghali, Bassilios C. Petrakis, Ronald D. Perkins) adopt the Amended Federal Class Action Complaint filed in this matter on July 2, 2008 (Attached as Exhibit "1"). On July 17, 2008, Respondents filed a Motion to Compel Arbitration based on an arbitration clause included in the Signature at MGM Grand Purchase and Sale Agreement executed by each claimant (Purchase and Sale Agreement attached as Exhibit "2"). Claimants opposed said Motion to Compel Arbitration based upon state law theories of procedural and substantive unconscionability. On April 6, 2009, a federal Magistrate Judge denied Respondents' Motion to Compel Arbitration (Magistrate's Order attached as Exhibit "3"). On April 22, 2009, the Nevada Supreme Court in a related action determined the arbitration clause to be valid and enforceable (Nevada Supreme Court Order attached as Exhibit "4"). On June 16, 2009, the U.S. District Court reversed the Magistrate Order (U.S. District Court Order attached as Exhibit "5"). The following causes of action are alleged against Respondents: (1) Violation of the Securities Act of 1933, (2) Violation of the Securities Exchange Act of 1934, (3) Violation of N.R.S. 90.460, (4) Violation of N.R.S. 90.570, (5) Violation of N.R.S. 598, *et seq.* (6) Fraudulent Misrepresentation, (7) Negligent Misrepresentation, (8) Fraud in the Inducement, (9) Fraudulent Concealment.

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Attorneys for Plaintiffs
 07A547024
 578058
**DISTRICT COURT****CLARK COUNTY, NEVADA**

15	KJH & RDA INVESTOR GROUP, LLC; 37 th)	CASE NO. A547024
16	FLOOR INVESTOR GROUP, LLC;)	[Consolidated with A565873; A569825;
17	MICHAEL ANDERSON and MATHEW)	A573280; A574558; A577034; A581851]
18	ANDERSON; PIERRE BAIN; IBRAHIM)	
19	BARLAJ and LAURA BARLAJ; DAN)	FIRST AMENDED CONSOLIDATED
20	BIRDSALL; TERENCIA CONEJERO;)	COMPLAINT
21	DIANE B. FAULCONER; FCF, LLC;)	
22	STEPHEN J. GUYON; OGANES JOHN)	
23	HAKOPYAN; MARKAR KARATAS and)	(1) VIOLATION OF §12(a)(1) Of THE
24	NURHAN CELIK; FRANK KEANE and)	SECURITIES ACT OF 1933
25	CAROL KEANE; DENNIS LEUNG and)	
26	JIYEN SHIN; LETICIA L. MAGRI; ANAHIT)	(2) VIOLATION OF §10 THE SECURITIES
27	MANDOYAN and ALEXANDER)	EXCHANGE ACT OF 1934
28	MANDOYAN; SUSAN MIGNOT and)	
	MARK MIGNOT; MARY MOMDZHYAN;)	
	BB VENTURES, LLC; ED NARVAEZ;)	
	DANE R. PHILLIPS; CRAIG A. PRIMAS;)	
	JAMES RICK and LAURINDA RICK;)	(3) VIOLATION OF N.R.S. 90.460
	DOUGLAS SCHOEN; PGR ENTERPRISES,)	
	LLC; DIMITRITSA H. TOROMANOVA;)	

1	38 th FLOOR INVESTOR GROUP, LLC;	)	(4) VIOLATION OF N.R.S. 90.570
2	DAVID L. VADIS; ROSS BERKELEY;)	
3	WOLF TRADING COMPANY, LLC;	)	(5) VIOLATION OF N.R.S. 598, <i>et seq.</i>
4	MICHAEL WILSON, STANLEY WILSON,)	
5	and CAMILLA WILSON; DASHRATH	)	(6) FRAUDULENT CONCEALMENT; and
6	PANCHAL, DINA D. PANCHAL and)	
7	NARMIN HIRJI; QUEZADAS-HORTA	)	(7) FRAUDULENT CONVEYANCE
8	FAMILY TRUST, Roberto Quezadas-Horta,)	
9	Trustee; JOSEPH H. SMITH and CAROL J.)	
10	SMITH; MARIA ORELLANA; MAGHAMI)	
11	FERIAL TRUST, Ferial Maghami, Trustee;)	
12	LEONARDO BARRERA and GLORIA)	
13	BARRERA; MOJISOLA ADEKUNBI and)	
14	ABIOLA SANNI; SIGNATURE MGM)	
15	GRAND, LLC; DOUGLAS HUIBREGTSE;)	
16	JAMES HOKANSON; ANTE LONCAR,)	
17	LJUBICA LONCAR and ELIZABETH G.)	
18	VIDUCICH; RAUL RIOS and FERMINA)	
19	RIOS; VLADIMIR RIVKIN; DANNY MAES)	
20	and STEPHANIE CLEVELAND; MARK N.)	
21	KECHEJIAN and CHRISTINE KECHEJIAN;)	
22	MICHAEL HAHALYAK and LISA)	
23	KRISAY-HAHALYAK; BENJAMIN)	
24	RUDNITSKY and TAMAR A.)	
25	RUDNITSKY; CLAY FRAZIER and PAULA)	
26	FRAZIER; MIRIAM KIM and MARIE KIM;)	
27	PASQUALE FEBBRARO and CATHLEEN)	
28	M. FEBBRARO; HYU SHIN and JUNG)	
	SHIN; EUN YOUNG LEE; JOHN O.)	
	TOROSIAN and SARKIS TOROSIAN;)	
	LUNIQUE LE; RAFFI PIRICHIAN and ANI)	
	PIRICHIAN; JIM C. BURGUM; NARMIN)	
	HIRJI; NANCY MARTINA; HERMAN)	
	CELIKIAN; RICHARD FELDMAN; LES)	
	KRIEGER and REBEKAH KRIEGER;)	
	CHRISTINA KIM; JUAN MEDINA and)	
	CLARISSA MEDINA; THOMAS CIFELLI)	
	and JOHN CIFELLI; MANSOUR SHAMS)	
	and ZAHRIA SHAMS; LEE FAMILY)	
	TRUST, Chris Lee and Suzie Lee as Co-)	
	Trustees; BRADLEY COSTELLO 1997)	
	TRUST, Bradley Costello as Trustee;)	
	BERNARD KLOUDA; RUZAN)	

1 CHARKCHYAN and ARUTYUN)
 2 CHARKCHYAN; MARCO GONZALEZ;)
 3 MARK BUCHSTABER and DEBORAH)
 4 BUCHSTABER; LINH TANG and HUNG)
 5 TANG; JERRY BROWN; WILLIAM)
 6 PEDERSON and TATYANA PEDERSON;)
 7 CHARLES GERACI and DELVIN DIAZ;)
 8 MYUNG JA CHO; SHERENNE TANG and)
 9 JULIETA BALAHADIA; CHENG LIM;)
 10 DAVID SHIM; HOJOON LEE; MICHAEL)
 11 LINARES and LAURIE LINARES; GREG YI)
 12 and GRACE YI; SOLIP, LLC; UJJAL)
 13 GHOSHTAGORE; WERDMULLER)
 14 FAMILY TRUST, Walter E. Werdmuller von)
 15 Elgg and Jill C. Werdmuller von Elgg,)
 16 Trustees; SASAN SEIDFATHI and)
 17 MEHRNAZ SAGHAFI; LAWRENCE M.)
 18 DUMOULIN; SEHAK TUNA and VARTUHI)
 19 TUNA; LAWRENCE HOBSON and LINDA)
 20 M. HOBSON; LEE PRITZL; BELINDA W.)
 21 LOUIE; AMIN A. RAHIM and ZAITUN A.)
 22 RAHIM; PRISCILLA SALEM; IKE)
 23 SHERMAN and GILLIANA SHERMAN;)
 24 REMI OHTA; DUNCAN & GARDELLA)
 25 ENTERPRISES, LLC; ALEXANDER)
 26 GONSECKI and VALENTINA GONSECKI;)
 27 SHI SI ZHENG; MARTHA VIAS; ANDRES)
 28 ALOS; CHARLES CROOKS and LAURA)
 CROOKS; SAMPAL FAMILY)
 REVOCABLE LIVING TRUST; FOUAD)
 FEGHALI; BASSILIOS PETRAKIS;)
 DANIEL REICH and NATALIE REICH;)
 JOSE SANCHEZ; LINDA CORBRIDGE;)
 RAFIK BAKIJAN; RONALD D. PERKINS;)
 LV 700, LLC; LOUIS CARNESALE and)
 JOHN CARNESALE,)
 Plaintiffs,)
 vs.)
TURNBERRY/MGM GRAND TOWERS,)

1 LLC; MGM MIRAGE; MGM GRAND)
 2 CONDOMINIUMS, LLC; THE)
 3 SIGNATURE CONDOMINIUMS, LLC;)
 4 TURNBERRY/HARMON AVE., LLC;)
 5 TURNBERRY WEST REALTY, INC.; and)
 6 DOES 1 through 100, Inclusive,)
 7
 8 Defendants)

9 **GROUP ACTION COMPLAINT**

10 COMES NOW, Plaintiffs KJH & RDA INVESTOR GROUP, LLC; 37th FLOOR
 11 INVESTOR GROUP, LLC; MICHAEL ANDERSON and MATHEW ANDERSON; PIERRE
 12 BAIN; IBRAHIM BARLAJ and LAURA BARLAJ; DAN BIRDSALL; TERENCIA
 13 CONEJERO; DIANE B. FAULCONER; FCF, LLC; STEPHEN J. GUYON; OGANES JOHN
 14 HAKOPYAN; MARKAR KARATAS and NURHAN CELIK; FRANK KEANE and CAROL
 15 KEANE; DENNIS LEUNG and JIYEN SHIN; LETICIA L. MAGRI; ANAHIT MANDOYAN
 16 and ALEXANDER MANDOYAN; SUSAN MIGNOT and MARK MIGNOT; MARY
 17 MOMDZHYAN; BB VENTURES, LLC; ED NARVAEZ; DANE R. PHILLIPS; CRAIG A.
 18 PRIMAS; JAMES RICK and LAURINDA RICK; DOUGLAS SCHOEN; PGR ENTERPRISES,
 19 LLC; DIMITRITSA H. TOROMANOVA; 38th FLOOR INVESTOR GROUP, LLC; DAVID L.
 20 VADIS; ROSS BERKELEY; WOLF TRADING COMPANY, LLC; MICHAEL WILSON,
 21 STANLEY WILSON, and CAMILLA WILSON; DASHRATH PANCHAL, DINA D.
 22 PANCHAL and NARMIN HIRJI; QUEZADAS-HORTA FAMILY TRUST, Roberto Quezadas-
 23 Horta, Trustee; JOSEPH H. SMITH and CAROL J. SMITH; MARIA ORELLANA; MAGHAMI
 24 Ferial TRUST, Ferial Maghami, Trustee; LEONARDO BARRERA and GLORIA
 25 BARRERA; MOJISOLA ADEKUNBI and ABIOLA SANNNI; SIGNATURE MGM GRAND,
 26 LLC; DOUGLAS HUIBREGTSE; JAMES HOKANSON; ANTE LONCAR, LJUBICA
 27
 28

1 LONCAR and ELIZABETH G. VIDUCICH; RAUL RIOS and FERMINA RIOS; VLADIMIR
2 RIVKIN; DANNY MAES and STEPHANIE CLEVELAND; MARK N. KECHEJIAN and
3 CHRISTINE KECHEJIAN; MICHAEL HAHALYAK and LISA KRISAY-HAHALYAK;
4 BENJAMIN RUDNITSKY and TAMAR A. RUDNITSKY; CLAY FRAZIER and PAULA
5 FRAZIER; MIRIAM KIM and MARIE KIM; PASQUALE FEBBRARO and CATHLEEN M.
6 FEBBRARO; HYO SHIN and JUNG SHIN; EUN YOUNG LEE; JOHN O. TOROSIAN and
7 SARKIS TOROSIAN; LUNIQUE LE; RAFFI PIRICHIAN and ANI PIRICHIAN; JIM C.
8 BURGUM; NARMIN HIRJI; NANCY MARTINA; HERMAN CELIKIAN; RICHARD
9 FELDMAN; LES KRIEGER and REBEKAH KRIEGER; CHRISTINA KIM; JUAN MEDINA
10 and CLARISSA MEDINA; THOMAS CIFELLI and JOHN CIFELLI; MANSOUR SHAMS and
11 ZAHRIA SHAMS; LEE FAMILY TRUST, Chris Lee and Suzie Lee as Co-Trustees; BRADLEY
12 COSTELLO 1997 TRUST, Bradley Costello as Trustee; BERNARD KLOUDA; RUZAN
13 CHARKCHYAN and ARUTYUN CHARKCHYAN; MARCO GONZALEZ; MARK
14 BUCHSTABER and DEBORAH BUCHSTABER; and LINH TANG and HUNG TANG;
15 JERRY BROWN; WILLIAM PEDERSON and TATYANA PEDERSON; CHARLES GERACI
16 and DELVIN DIAZ; MYUNG JA CHO; SHERENNE TANG and JULIETA BALAHADIA;
17 CHENG LIM; DAVID SHIM; HOJOON LEE; MICHAEL LINARES and LAURIE LINARES;
18 GREG YI and GRACE YI; SOLIP, LLC; UJJAL GHOSHTAGORE; WERDMULLER FAMILY
19 TRUST, Walter E. Werdmuller von Elgg and Jill C. Werdmuller von Elgg, Trustees; SASAN
20 SEIDFATHI and MEHRNAZ SAGHAFI; LAWRENCE M. DUMOULIN; SEHAK TUNA and
21 VARTUHI TUNA; LAWRENCE HOBSON and LINDA M. HOBSON; LEE PRITZL;
22 BELINDA W. LOUIE; AMIN A. RAHIM and ZAITUN A. RAHIM; PRISCILLA SALEM; IKE
23 SHERMAN and GILLIANA SHERMAN; REMI OHTA; DUNCAN & GARDELLA
24 ENTERPRISES, LLC; ALEXANDER GONSECKI and VALENTINA GONSECKI; SHI SI
25 ZHENG; MARTHA VIAS; ANDRES ALOS; CHARLES CROOKS and LAURA CROOKS;
26 SAMPAL FAMILY REVOCABLE LIVING TRUST; FOUAD FEGHALI; BASSILIOS
27
28

1 PETRAKIS; DANIEL REICH and NATALIE REICH; JOSE SANCHEZ; LINDA
2 CORBRIDGE; RAFIK BAKIJAN; RONALD D. PERKINS; LV 700, LLC; LOUIS
3 CARNESALE and JOHN CARNESALE ("PLAINTIFFS"), who bring this group action against
4 TURNBERRY/MGM GRAND TOWERS, LLC, a Nevada LLC; MGM GRAND
5 CONDOMINIUMS LLC, a Nevada LLC; THE SIGNATURE CONDOMINIUMS, LLC a
6 Nevada LLC; MGM MIRAGE, a Delaware Corporation; TURNBERRY/HARMON AVE.,
7 LLC., a Nevada LLC; and TURNBERRY WEST REALTY, INC., a Nevada Corporation and
8 DOES 1 through 100, inclusive (hereinafter collectively referred to as ("DEFENDANTS")), and
9 allege, based upon information and belief, except where otherwise stated, as follows:

10 **NATURE OF THE ACTION**

11
12 1. The instant Complaint involves a scheme among the Defendants through which
13 Plaintiffs were illegally and fraudulently induced through material omissions and concealments
14 into purchasing investment securities (the "Securities") at the Signature at the MGM Grand
15 Hotel/Casino in 2006 & 2007.

16 2. The project was variously referred to as The Residences, The Residences at MGM
17 Grand and/or The Residences: A Condo Hotel by Turnberry. The name was subsequently
18 changed prior to any closings and is currently operated under the brand name of the Signature at
19 MGM Grand.

20 3. There is a unity of interest among Defendant Turnberry/MGM Grand Towers,
21 LLC, which is a shell entity, and the other Defendants such that if only Turnberry/MGM Grand
22 Towers, LLC were held liable there would be an inequitable result and Plaintiffs' would be
23 unable to reach the funds they paid for the investment securities. The sale of securities by
24 Defendant was a single business enterprise with Turnberry/MGM Grand Towers, LLC used as
25 the tool, alter ego, agent and instrumentality of the other Defendants in an inequitable and
26 fraudulent attempt to shield the other Defendants from liability and prevent Plaintiffs from
27

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Entity Details**THIS IS NOT A STATEMENT OF GOOD STANDING**

File Number: 4939799 **Incorporation Date / Formation Date:** 02/16/2011 (mm/dd/yyyy)

Entity Name: BOWDOIN STREET CAPITAL, LLC

Entity Kind: LIMITED LIABILITY COMPANY (LLC) **Entity Type:** GENERAL

Residency: DOMESTIC **State:** DE

REGISTERED AGENT INFORMATION

Name: THE CORPORATION TRUST COMPANY
Address: CORPORATION TRUST CENTER 1209 ORANGE ST
City: WILMINGTON **County:** NEW CASTLE
State: DE **Postal Code:** 19801
Phone: (302)658-7581

Additional Information is available for a fee. You can retrieve Status for a fee of \$10.00 or more detailed information including current franchise tax assessment, current filing history and more for a fee of \$20.00.

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**AMERICAN ARBITRATION ASSOCIATION
COMMERCIAL AND CLASS ACTION ARBITRATION TRIBUNAL
AAA CASE NO. 11 115 01858 09**

Mary Ann Sussex; Mitchell Pae; Malcolm Nicholl
and Sandy Scalise; Ernesto Valdez, Sr. and
Ernesto Valdez, Jr.; John Hanson and Elizabeth Hanson;
Andres F. Alos; Martha Vias; Charles Crooks and
Laura Crooks; Sampal Family Revocable Living Trust;
Daniel Reich and Natalie Reich; Jose Sanchez;
Linda S. Corbridge; Fouad Feghali; Bassilios C. Petrakis
and Ronald D. Perkins, on behalf of
themselves and all others similarly situated

Claimants,

and

TURNBERRY/MGM GRAND TOWERS, LLC
a Nevada LLC; MGM Grand Condominium LLC,
a Nevada LLC; The Signature Condominiums LLC,
a Nevada LLC; MGM Mirage, a Delaware Corporation;
Turnberry/Harmon Ave, LLC; and
Turnberry West Realty, Inc., a Nevada Corporation,

Respondents.

PARTIAL FINAL CLAUSE CONSTRUCTION AWARD

Introduction

I, the Undersigned Arbitrator, having been designated in accordance with the arbitration clause of the Signature at MGM Grand Purchase and Sale Agreements (the “Agreements”), entered into between Claimants, Mary Ann Sussex (“Sussex”), Mitchell Pae (“Pae”), Malcolm Nicholl (“Nicholl”), Sandy Scalise (“Scalise”), Ernesto Valdez, Sr. and Ernesto Valdez, Jr. (the “Valdezes”); John Hanson and Elizabeth Hanson (“Hansons”), Andres F. Alos (“Alos”), Martha Vias (“Vias”), Charles Crooks and Laura Crooks (“the Crooks”), Sampal Family Revocable

Living Trust (“Sampal Trust”), Daniel Reich and Natalie Reich (“Reich”), Jose Sanchez (“Sanchez”), Linda S. Corbridge, (“Corbridge”), Fouad Feghali (“Feghali”), Bassilios C. Petrakis (“Petrakis”), and Ronald D. Perkins (“Perkins”) (collectively “Claimants”), and Respondent Turnberry/MGM Grand Towers, LLC. (“Turnberry/MGM” or “Respondent”), having been duly sworn, and having duly examined the proofs and allegations of the parties, do hereby, AWARD as follows:

This Partial Final Clause Construction Award regarding the construction of the pertinent arbitration clauses is issued pursuant to American Arbitration Association (“AAA”) Rule 3 of the Supplementary Rules for Class Arbitrations (the “AAA Rules”) and the Order of June 16, 2009 of the United States District Court for the District of Nevada (the “Order”). Based on my review of the arbitration clauses, the relevant law, the record before me, and the submissions of counsel, I find that the arbitration clause in question does not permit the arbitration to proceed on behalf of a class. Nothing in this Partial Final Clause Construction Award implies any view of the merits of the underlying disputes.

Background and Allegations

I. Parties, Agreements, and Identity of Putative Class

Pursuant to the Agreements, Claimants purchased luxury hotel condominium units for a project known as the Signature at MGM Grand (“Signature”). Signature was developed under an approved Public Offering Statement, subject to a Declaration of Covenants, Conditions, Restrictions and Reservation of Easements for the Condominium. The purchase prices ranged from \$425,000 to \$745,000. Each Agreement contained identical terms and conditions, although Claimant Sussex negotiated an amendment to her Agreement.

The Agreements contained an arbitration clause, which provided in part: